

Notice of Allowability

Application No.

10/785,472

Applicant(s)

LUXEMBOURG ET AL.

Examiner

Art Unit

F. Pierre VanderVegt

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 2/21/06.
2. ☒ The allowed claim(s) is/are 16-18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>02212006</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on February 21, 2006 has been entered.

Reasons For Allowance

2. The following is an examiner's statement of reasons for allowance:

The request for a RCE was filed in order to allow the consideration of the publication by Tallquist et al (J. Immunol. [1995] 155(5):2419-2426; 1 on form PTO-1449 filed February 21, 2006). Tallquist has been fully considered and does not teach or suggest, either alone or in combination with other references, the claimed invention. While Tallquist does teach MHC class I K^{bm3} and L^D molecules immobilized on beads (page 2420, first column in particular), the teachings of the reference differed significantly from the claimed invention. First, the instant claims are drawn to MHC molecules that are recombinantly expressed in *Drosophila* cells, while the MHC molecules of Tallquist are expressed in mammalian cells. As previously addressed in the Reasons for Allowance mailed November 17, 2005, there is a physical difference between glycoproteins, such as MHC molecules, expressed in *Drosophila* cells *versus* the same glycoprotein expressed in a mammalian cell. There is no teaching in Tallquist that would suggest the use of MHC molecules that are recombinantly expressed in *Drosophila* cells. Second, the instant claims are drawn to empty MHC class I molecules being attached to the substrate in order to capture soluble antigenic peptides from a sample exposed to the substrate. Tallquist teaches MHC class I molecules that are loaded with antigenic peptides in mammalian cells, which are then lysed to release the loaded MHC class I molecules. The loaded MHC class I molecules are then reacted with an antibody that, in turn, is then immobilized on protein A sepharose beads. The immobilized loaded MHC class I molecules are then used to capture antigen-specific T cells. Accordingly, there is no motivation in Tallquist to use empty MHC class I molecules because they would not capture the subject T cells. Furthermore, the dissociation constant for peptides bound to MHC class I molecules is known in the art to be sufficiently high that it would not be reasonable to expect that some peptides would become dislodged from MHC

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class I during the purification procedure in order to result in empty MHC class I molecules being bound to the sepharose column.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Pierre VanderVegt whose telephone number is (571) 272-0852. The examiner can normally be reached on M-Th 6:30-4:00 and Alternate Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

F. Pierre VanderVegt, Ph.D. 
Patent Examiner
May 15, 2006


CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600